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BOOK REVIEWS.

NOTES ON MASSACHUSETTS PRACTICE WITH REFERENCE TO PROCEEDINGS BEFORE MASTERS AND AUDITORS. By Frank Paul. Boston: Little, Brown, and Company. 1909. pp. xvi, 234.

This book is a work invaluable in its special field. It is perhaps to be expected that, dealing with such a subject, it should be so arranged that all the points on one part of the subject should be grouped together and that it should be so indexed that any one point might readily be discovered. The law of procedure is easily analyzed. But it does not offer an inspiring field for careful argument. We are pleasantly surprised therefore to find in this book new points of practical importance raised, conflicting authorities carefully compared, analogous decisions and statutes discussed and, when necessary, the course of development of statutes traced, as if a principle of substantive jurisprudence were in question. Furthermore, whether in considering a new point or a point of conflict the author has not hesitated to state his conclusion, with his reasons for it, thereby giving the reader who will agree with him the benefit of the opinion of one who has studied the whole field, and showing the reader who will disagree with him some points which must be overcome. The book promises to be one to which the practitioner may turn and find his point treated, not missed — a high recommendation when the subject includes the many worrying little details of practice.

P. K.

THE HOUSE OF LORDS ON THE LAW OF TRESPASS TO REALTY AND CHILDREN AS TRESPASSERS. By Thomas Beven. London: Stevens and Haynes. 1909. pp. 48.

The legal profession are indebted to a recent decision of the House of Lords,¹ for this interesting and instructive pamphlet. That decision goes far towards committing the courts of last resort in Britain to the doctrine, approved by our Federal court of last resort, in *Railroad Company v. Stout* (1873), 17 Wall. 657. In each case, the plaintiff was a child of tender years (four years and six years respectively), who was injured while playing with a turn-table on the defendant's land, at some distance from the highway. Of course, neither turn-table was placed on its land by the defendant, with a view of alluring children to use it as a plaything, but solely for its lawful business as a railroad company. The machinery was not in, or immediately adjoining, a highway, nor was either plaintiff rightfully upon defendant's premises, when injured. Nor had such plaintiff an express license from the defendant to be upon its land, and the only implication of license seems to be found in the facts, that defendant knew or had reason to believe that children would enter upon its land for the purpose of playing with the turn-table, and did not take effective measures to prevent them from so trespassing. In each case, it is declared to be a question for the jury, whether the defendant was guilty of actionable negligence towards the child.

Sir Frederick Pollock has expressed the opinion that all the Lords decided in the *Cooke Case* "is that licensees known to the licensor to be, by no fault of their own, incapable of exercising the caution of a normal man are entitled to a measure of special care in proportion to their imbecility." In his judgment, the rule of law laid down is one of narrowly limited extent, though he admits "some persons may be encouraged to bring speculative and fruitless actions," because

¹ *Cooke v. Midland G. W. Ry. Co.*, [1909] A. C. 229, 78 L. J. C. P. 76, reversing s. c. in [1908] 2 Ir. 242.